App. F. IX-4

1930. (S. & A.)

File No. 243-30

Serial Nos. 1, 2, 3

Previous References

S & A 48-29 (S. 18 (Miscellaneous))

Later References

S & A 578-30

No 182

S & A 99-31 (1-4)

General and Revenue Secretariat.

S & A 412-31 (1-2) S & A. 318-31 (1-2)

S & A 143-32 (1-2)

Book 147/32

Law Dep 775-33

Serial Nos. Three

S & A 253-653-39 (1-4)

Part B for Feb 31.

SUBJECT.

Introduction of a provisional scheme for grant of Compassionate gratuity to the families of deceased Officers and laying down rules of procedure for working the Scheme

(Sl no 3) No H 6202-61 dt 9/2/31 To the Compr & Govt Secretaries to Govt Heads of Dept & Comrs of Districts & Collector

Directs the introduction addition of a new rule (64) defining the word "family" for purposes of Compassionate gratuity

File linked herewith

Serial No.

Financial Secretary's Remarks in File No. (Diary) 964 -S.& G.108-30-2

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1 There is considerable force in the view expressed by the Comptroller.

2 The Compassionate gratuity is mainly intended as a family provision in respect of officers who die in harness or soon after retirement before enjoying the full benefit of pension.

3 The principle that Government do not recognise any claims of the widow of a deceased officer for financial assistance - vide art.241 M.S.R. - has been replaced by the new scheme introduced for the benefit of the family.

4 The grant of an extraordinary pension to the family of a man killed in the execution of duty is permissible only if he had a wife, legitimate child, father or mother, dependent on him - vide art.392 M.S.R.

5 I therefore support the Comptroller's proposal that the term 'family' may be defined for the purpose of the compassionate gratuity rules, as in the G.O. of 18th March 1930 (Flag J).

6 Under rule 14 of the Rules issued with G.O. 3rd April 1929 (Flag K.) Government have reserved the power to modify the rules at any time. And having regard to the object with which the scheme has been sanctioned, it is only reasonable that the grant of compassionate gratuity should be reserved to cases where there is a family dependent on the deceased.

7 A new rule 6A may be introduced as follows:-

"Family, for the purposes of these rules, includes an officer's wife, his legitimate children and step children residing with and wholly dependent on him; also his parents, sisters and minor brothers, if wholly dependent on and residing with him".

NOTE--Contn. Sheet.

WD 3120—GPB—500—2-5-30

Serial No.

8 This is a substantial change and requires careful consideration. It will be submitted separately.

9 In the meantime, the present case has to be disposed under the existing rules, applying the procedure contained in art. 530 M.S.R. as regards the determination of the heirs of the deceased.

10 The recommendations of the Director of Public Instruction may be sanctioned.

Intld. B.S.
20-9-1930.

3rd Member)

11. I agree. The question of the modification of the rule may be settled early.

Intld. P.G.D.
25/9/1930.

DEWAN'S OFFICE 2950 1 - NOV 1930

12. Subd: for orders with a draft as per para 7 of the notes.

Intld. 31.10.30

13 Draft as per para 7 is submitted for approval.

3d member) 25.11.30
Dewan)

29/11/30.

Subd: with S + A Dept dt 48-29-18 (Jt; R) relating to the above point. (Vide Pages 9 + 10) Please see para 25 at page 6 & also page 223 of the C.S.R. for the definitions of the word "family".

17.11

1878

2974

WD 3120—GPB—500—2-5-30

General and Revenue Secretariat

Sft File No. 243 of 193 0.

Serial No.	
1.	NW: 7c: 55 to 65 12-1-31. To the Govt: Advocate Calls for his opinion in the matter of including "Step. children" in the definition ~~proposed to~~ of the word "family" &c.
2.	Letter NW: 479 of 28-1-31 from the Govt: Advocate furnishing his opinion in the matter. The Govt: Advocate is of opinion that it is unnecessary to include "Step. children in the definition except, in the cases of Emp. Loyees who are Christians. The L.R may also be consulted 30/1 The Govt Advocate's letter indicates that the obligation to maintain Step children would arise only in the case of Asian British Subjects in so far as it is covered by Poor Law Provision or under provision for neglect in Criminal Law. In the case of others, Asian, there seem to be some doubt (vide) As female employees obviously come within the rules re Compassionate gratuity, to what extent Step-children of such employees should be recognized and whether this should be confined to legally valid marriages under the provisions of Hindu Law or other enactments in force require consideration. The L.R. may be specifically consulted on this point. 31.1.31

NOTE—Contn. Sheet.

WD 02553—G PB—50,000—8-7 30

Vide orders on slip attached

Dewan 2

I think we may adopt for this purpose the definition of family given in art 392 MSR

Mml
31.1.31

OFFICE OF THE THIRD MEMBER OF COUNCIL. 3 FEB. 1931 No 1410.8

1) Subd: with a draft order.

WPhn 2/2

2) Draft order for approval

2.2.31

Flden,

1) In the definition as originally drafted, step children, and sisters & minor brothers, ~~wholly dependents for a livelihood~~ were included.

2) It is considered necessary that the list of dependents in view in conformity with the policy accepted in regard to the grant of extraordinary pensions.

3) Draft formally redrafted as now seen.

3rd member

2.2.31

4) Mr Mehta will have opportunity for further - All applications already received in the Secretariat may with the complete report should be dealt with in accordance with the provisions.

3rd member

2.2.31 4/2/31

General and Revenue Secretariat S/A File No. 243 of 1930.

Serial No.	
	May the draft issue?
	Yes. 6-2-31
3	No: M: H: 6202-61 dt 9-2-31 re the compln: miscellaneous Dept: the Heads of Depts: the Dy: Commrs of Dists: the Compiler, Mysore Gazette Dirs: The addition of a new sub cl (6 A) defining the word "family" for purposes of compassionate gratuity

Passed

NOTE—Contn. Sheet.

WD 02553—GPB—50,000—8 7 30

H 55-10 Eh dd 12/1/31 SFA 243·30·1.

Dear Sir,

With reference to Government Order of the 1st/3rd April 1929 and the Rules thereunder regarding the Scheme of the grant of compassionate gratuity to the families of pensionable employees dying in harness or soon after retirement (copies enclosed for ready reference) it has been found necessary to introduce a definition of the word "family" so as to determine clearly the heirs of the deceased officer to whom special relief might be given.

It is proposed to introduce a new Rule 6 (a) as follows:-

" Family, for the purpose of these Rules, includes an officer's wife, his legitimate children and step-children residing with and wholly dependent upon him; also his parents, sisters and minor brothers, if wholly dependent on and residing with him."

The point for consideration is whether it is necessary to include "step-children" in this definition. If the Law applicable to Parties imposes an obligation on the father to maintain his step-children, it is reasonable that the latter should have the benefit of the shheme and share in the compassionate gratuity.

Government would be glad to have your opinion as to which are the castes or communities for which this provision on behalf of step-children would be necessary.

A very early reply is requested.

Yours sincerely,

M. Ramachandra Rao, Esq., B.A.,B.L.,

Government Advocate, Bangalore.

3182
71

SHP 243-30-2

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

In reply please refer to
No. 479

Tel. Address:—
"JURIST," Bangalore.

Bangalore.....28th January.....1931.

29 JAN. 1931
No.

FROM

M. RAMACHANDRA RAO, ESQ., B.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

To

Rajasevaparayana
B. Srinivasa Iyengar, Esq., B.A., B.L.,
Secretary to the Government
of H. H. the Maharaja of Mysore,
Financial Department,
Bangalore.

Refer
h
29.1.31
h

SIR,

With reference to your letter No. Fl. 5510, - dated the 12th January 1931, re: Rules relating to the scheme for the grant of Compassionate Gratuity to - families of pensionable employees, I have the honor to enclose herein my opinion on the subject.

I have the honor to be,
Sir,
Your most obedient servant,

M. Ramachandra Rao
Government Advocate.

O p i n i o n.

The point for consideration is whether it is necessary to include 'step-children' in the definition of 'family' as embodied in the proposed new Rule, 6A. Taking the Rule as framed, it applies only to male employees under Government. It is, in my opinion, unnecessary to include "step-children" in the definition except in the cases of employees who are Christians (either British Subjects or those other than British Subjects).

Why? Only the husband of a woman servant is the step-father.

As regards the liability of a father to maintain his step-children, the position according to the law as administered in India - and as may be taken to be administered in Mysore also - may be stated thus:

(a) Hindu Law:- There can be no step-children to a Hindu male under this law. So, the question of liability to maintain step-children does not arise.

(b) Law governing Jains:- The law is the same as for Hindus.

(c) Mohamadan Law:- Step-children do not inherit from step-parents nor vice-versa. No liability arises under this law also.

(d) Law governing Parsis:- The liability to maintain step-children is not recognised.

(e) Law governing Christians:- (British Subjects).
(i) Except under the operation of the Poor Law there is no actual legal obligation under the English Law on a father or mother to maintain a child, unless the neglect to do so would bring the case within the Criminal Law. But, the moral duty of a father to maintain his infant children and also where he has put himself in loco-parentis towards them, the infant children of his wife by a former marriage has been recognised by the Courts, which have refused to allow maintenance out of the property of infants where the father is in a position to maintain them. (See Halsbury's Laws of England, Vol.XVII, page 114). Accordingly, in the case of employees in the State-service who are British subjects, a provisio

provision covering this "moral duty" - practically amounting to a legal duty - may be necessary.

(ii) Christians other than British Subjects: Section 30 of the Indian Succession Act is definite on the - point. Where a person dies intestate, his property shall belong to his surviving "child" if there be - only one, or shall be equally divided among ~~xix~~ all his surviving"children". Here, the words "child" and "children" mean only legitimate children of his own loins. No mention is made of step-children. But, it is a question, if in view of ~~xxxxxxx~~ the - wording of section 165 of the Indian Succession Act, X of 1865, whether a moral liability of the kind - arising in the case of British Subjects does not also arise in the case of a Christian other than a British Subject.

M. Ramachandra Rao

Bangalore,
28-1-1931.

Government Advocate.

H.

SUBJECT.....

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Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the 192 .

Date of issue.....

Signed by.....

May this be

i Printed?

ii treated as a standing order ?

iii published in the Gazette, English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette, Kannada Part ?

Sec S & A.

File No. 243-30

Serial No. 3

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read –

Go: No: FL: 7418-77/S & A 25-2-30 & 181/3rd April 1929 sanctioning the introduction of a provisional scheme for grant of compassionate gratuity to the families of deceased officers and laying down rules of procedure for working the scheme.

Order Thereon No.

Govt: authorised & direct that a new rule 6 A be introduced as follows:-

"Family, for the purposes of these rules, includes an officer's wife, his legitimate children and step children residing with & wholly dependent on him; also his parents, sisters, & minor brothers, if wholly dependent on & residing with him"

Read FL: Secy: to Govt

To. The comptr.
The Secretaries to Govt:
The Heads of Depts
The Dy: Commrs of Dists

USRm 31/10/31

SUBJECT .....

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ab/

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the 193 .

Date of issue..... 9.2.31

Signed by..... M.A.R.B

May this be

(i) Printed ? Yes

(ii) treated as a standing order ? Yes.

(iii) published in the Gazette, — English Part?

(iv) translated ? —

(v) placed at the disposal of the press ? —

(vi) published in the Gazette, Kannada Part ? —

Sec. S&A

File No. 243-30

Serial No. 3

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read—

Gov. no: H: 3418-77/S&A 352-28-4 dt 18/3rd April 1929 sanctioning the introduction of a provisional Scheme for grant of compassionate gratuity to the families of deceased officers & laying down ~~Order Thereon No.~~ rules of procedure for working the scheme.

Govt no: H: 6202-61/

Govt are pleased to direct that a new rule 6A be introduced as follows:

"Family for the purposes of the above rules includes an officer's wife, legitimate children, father

Del- 392 M.S.R

and
~~his~~ mother, dependent upon him
for support.

2.2.31

WRw 2/2/31 A-S 2.2.31 H: Sec: W Prot

To the Compiler:

Mr Secretan's W Prot:

Mr. Heads of Depts:

Mr Dy: Commrs. of Works

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